Appendix

CALIFORNIA DISTRICTS SECURITIES COMMISSION ACT, CAL. STATS. 1931, p. 2263, AMENDED.

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"Sec. 11. Whenever any district has levied the annual assessment required by the California Irrigation District Act or any acts amendatory thereof or supplemental thereto and when the money derived from said assessment, together with any other revenue allocated to payment of bond interest and principal, is insufficient to meet the bond interest or principal when due and said district defaults on its bond principal or interest, or both to the extent of not less than twenty per cent (20%) of the amount due, said defaulting district shall be subject to this section and shall be under the control and direction of the commission to the extent herein provided. Thereafter it shall continue subject to this section and to such control and direction during the effective period of this section unless and until the amount raised by its annual assessment as hereinafter provided, together with other revenue derived from any source and allocated to bond service or other outstanding obligations, shall sooner be sufficient to meet and pay off all matured and uncanceled or unrefunded obligations of such district, bonded or otherwise, in which event it shall cease to be subject to this section and such control and direction shall terminate so long as said district does not again default as aforesaid. Upon receipt of written notice from any such district or any creditor thereof, the California Districts Securities Commission shall make such an investigation of the affairs

of the district at the expense of the district as it may deem proper and for which funds are available in order to inform itself as to the financial affairs of the district and its lands, and to enable it to carry out the provisions of this section intelligently.

"The board of directors of any such defaulting district, in levying the annual assessment of the district, may, notwithstanding Section 39 of the California Irrigation District Act or any other provision of law governing such district, levy only for such total amount as in their judgment by a finding of fact, approved by the Districts Securities Commission it will be reasonably possible for the lands in said district, taken as a whole to pay without exceeding a delinquency of fifteen per cent. In determining the amount it is possible for the lands to pay, at the time of each annual assessment, the board of directors shall consider the productivity of lands in the district, crops growing and to be grown during the year, market conditions as well as they can be forecast, the cost of producing and marketing crops, and obligations of the land respecting taxes and public liens. Out of the money derived from such annual assessment the board of directors of the district may set aside such sum as, in the judgment of said board, and approved by the commission, may be necessary, in addition to other revenue allocable to that purpose, for the operation and maintenance of said district and its works for the ensuing year. The balance of said money derived from such annual assessment shall be prorated to bond interest, bond principal and to other outstanding obligations of the district in the proportion that the total

amount due on each of said items shall bear to the said balance.

"This section shall remain in effect only until the first day of November, 1935, unless sooner repealed. The Legislature expressly declares that this section is intended to be applicable to all bonds, obligations and assessments of districts which have defaulted to the extent hereinbefore set forth, and the Legislature expressly declares that it applies to all bonds now or hereafter issued and outstanding, including bonds issued before this law was enacted. Nothing in this section contained, however, shall be deemed to extinguish or cancel any obligation due from any district, and whenever the annual assessment, levied as hereinbefore provided, leaves matured bond principal or interest, or other matured obligations, unpaid, said unpaid balance shall continue as a district obligation until paid or refunded in accordance with law. (Repealed and added, Stats. 1933, p. 355.)"

Note: This section has been reenacted each two years including Statutes 1939, p. 1241, but the changes are not material to the questions involved. The act was discussed in *In Re Imperial Irrigation District* at 10 Fed. Sup. 832.

CALIFORNIA IRRIGATION DISTRICT ACT, CAL. STATS. 1897, p. 254, AS AMENDED.

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"Sec. 39. The board of directors shall then, within fifteen days after the close of its session as a board

of equalization, levy an assessment upon the lands within the district in an amount sufficient to raise the interest due or that will become due on all outstanding bonds of the district on the first day of the next ensuing January and the first day of the next ensuing July, or that the board of directors believes will become due on either or both of said dates, on bonds authorized but not sold; also sufficient to pay the principal of all bonds of the district that have matured or that will mature before the close of the next ensuing calendar year; also sufficient to pay in full all sums due or that will become due from the district before the close of the next ensuing calendar year on account of rentals, or charges for lands, water, water rights or other property acquired by said district under lease or contract; also sufficient to pay in full all sums due or that will become due from the district, before the close of the next ensuing calendar year on account of contracts entered into by the district for power or fuel used or to be used for the pumping of water for the irrigation of land within the district, provided, the payment of the cost of such power or fuel has not been provided for by the levying of tolls or charges for the use of water or otherwise; also sufficient to pay in full the amount of all unpaid warrants of the district issued in accordance with this act and the amount of any other contracts or obligations of the district which shall have been reduced to judgment; also such an amount as the board of directors may determine is necessary, to be set aside as a depreciation fund for the re-

placement or reconstruction of any specific unit or units of its works; also sufficient to raise such amount not exceeding two per centum of the aggregate value of the lands within the district according to the latest duly equalized assessment roll thereof, as the board of directors shall determine may be needed to be raised by assessment for any of the purposes of this act. The board of directors may also include in any annual assessment such an amount as it may deem proper, not exceeding one per centum of the total assessed value of the land in the district, to be apportioned to the bond fund and to be used as provided in section 52 of this act, for the redemption or purchase of bonds of the district not yet due, or for the creation of a sinking fund to pay any of such bonds as they become due; provided, however, that notwithstanding any provision of this act or any act amendatory hereof, or supplementary hereto, the board of directors may in lieu, either in whole or in part, of levying the annual assessment for the payment of interest on or principal of bonds, or for any other purposes of this act, use any income or revenue of the district derived from the sale of electric power or from the sale or lease of water or the use of water for power purposes.

Notwithstanding anything contained in this act, if any district shall have adopted a refunding plan as provided in section 32a hereof or shall have adopted any amendment thereof pursuant to the terms of this act, and such plan or modification shall provide for the raising of a fixed amount each year from assess-

ments to be applied to the payment of interest on or redemption of refunding bonds in the manner in such plan or modification thereof provided, the board of directors shall, in time, form and manner as herein provided, levy an assessment upon the lands in the district in an amount sufficient to raise the fixed amount required to be raised under such refunding plan or modification thereof in lieu of a separate assessment for interest due or to become due and in lieu of a separate assessment for principal or sinking fund due or to become due, and the amount of such assessment when collected shall be applied in the manner provided in such refunding plan or modification thereof. (Amended, Stats. 1939, p. 17.)"

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"Sec. 52. Upon presentation of any matured bond of the district, the treasurer shall pay the same from the bond principal fund, and upon presentation of any matured interest coupon of any bond of the district, the treasurer shall pay the same from the bond interest fund; provided, however, that if any refunding plan adopted under the provisions of section 32a of this act, or any modification thereof adopted as in this act provided, shall designate a special fund for the payment of bond principal or interest or sinking fund, the same shall be payable out of such fund or funds designated in such refunding plan or modification thereof; and provided further, that to the extent any such fund contains money applicable to the sinking fund provided for in such refunding plan or modification, it shall be the duty of the treasurer of the district to withdraw such sinking fund moneys

from such fund to the amount and at the times required under the terms of such refunding plan or modification thereof and to apply the same as in such refunding plan or modification thereof provided. If money is not available in the fund designated for the payment of any such matured bond or interest coupon, it shall draw interest at the rate of seven per cent per annum from the date of its presentation for payment until notice is given that funds are available for its payment, and it shall be stamped and provision made for its payment as in the case of a warrant for the payment of which funds are not available on its presentation.

"Whenever there is in any fund of the district money in excess of that required for the purposes of such fund up to the time when any part of the next annual assessment levied in the district will become delinquent, the board of directors of the district may purchase with such surplus money, or any part thereof, any of its bonds not then due, and may cancel the bonds so purchased or hold the same as a part of its assets until such time as the board may determine that it is for the best interests of the district that such bonds or any of them be sold, or shall cancel the same at their date of maturity. (Amended, Stats. 1939, p. 17.)"

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"Sec. 61a. Whenever any warrant of the district payable on demand is presented to the treasurer for payment when funds are not available for the payment thereof, it shall thereafter draw interest at a rate to be determined by resolution of the board of

directors, not, however, to exceed seven per centum per annum, until public notice is given that such funds are available. Upon the presentation of any such warrants for payment, other than warrants issued under the provisions of section 61 hereof, when funds of the district are not available to pay the same, the treasurer of the district shall endorse thereon the words 'funds not available for payment', with the date of presentation and shall specify the interest that such warrants shall thereafter bear and shall sign his name thereto. He shall keep a record showing the number and amount of each such warrant, the date of its issuance, the person in whose favor it was issued, and the date of its presentation for payment. Whenever there is sufficient money in the treasury to pay all such outstanding warrants or whenever the board of directors shall order that all such warrants presented for payment prior to a certain date, be made and there is sufficient money available for such payments, the treasurer shall give notice in some newspaper published in the district, or, if none is published therein, then in some newspaper published in the county in which the district or any portion thereof is situated, or, if none is published in such county, then the treasurer shall post such notice conspicuously in the place in which the board of directors of the district holds its regular meetings, stating that he is prepared to pay all warrants of the district for the payment of which funds were not available upon their original presentation, or all such warrants which were presented for payment prior to the date fixed by the board of direc-

tors, as the case may be, and no further description of the warrants entitled to payment shall be made in such notice. Upon the presentation of any warrant entitled to payment under the terms of such notice, the treasurer shall pay it, together with interest thereon at the rate specified by the board of directors, from the date of its original presentation for payment to the date of the first publication or posting of said notice, and all warrants for the payment of which funds are declared in said notice to be available shall cease to draw interest at the time of the first publication or posting of said notice. The treasurer shall enter in the record hereinbefore required to be kept, the dates of the payment of all such warrants, the names of the persons to whom payments are made and the amount paid to each person.

"No action or proceeding shall be maintained to enforce the payment of any such warrant or to require the levy of assessment therefor unless such action or proceeding be commenced within four years from the date of the original presentation of such warrant to the treasurer for payment; provided, however, that the board of directors is hereby authorized, subject to the consent of the California Districts Securities Commission to enter into agreement, either individually or collectively, with the holder or holders of any such warrant or warrants, fixing the time and method of, provision for and allocation of funds for the payment thereof and may by such agreement, waive, as therein set out, or otherwise waive, the time of commencing any action or proceeding thereon. (Amended, Stats. 1933, p. 1316.)"

Due service and receipt of a copy of the within is hereby admitted

*this*_____*day of January, 1941.*

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Counsel for Respondents.